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6 Plaintiff in Pro Per

7 UNITED STATES DISTRICT COURT
8
9 CENTRAL DISTRICT OF CALIFORNIA

10 MARC WOLSTENHOLME,
11 Plaintiff,
12 vs.
13 RIOT GAMES, INC.,
14 Defendant

CASE NO. 2:25-CV-00053-FMO-BFM HON.

Hon. Fernando M. Olguin

PLAINTIFF'S EXHIBIT U -
COUNTERARGUMENTS AGAINST
INDEPENDENT CREATION

15 Dated this: FEBRUARY 24, 2025

M.WOLSTENHOLME.

[MARC WOLSTENHOLME]

1 **I, Marc Wolstenholme, declare as follows:**

2
3 **1. Background and Introduction**

4 I am the plaintiff in this case against Riot Games, Inc., regarding copyright
5 infringement and unauthorized use of original materials derived from my manuscript
6 "Bloodborg" and related works. I submit this COUNTERARGUMENTS AGAINST
7 INDEPENDENT CREATION. This declaration provides evidence supporting my request for
8 damages and to outline the profound and ongoing impact of the defendant's actions on the
9 Plaintiff's brand, monetary welfare, and emotional health.
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**EXHIBIT U - COUNTERARGUMENTS AGAINST RIOT GAMES' "INDEPENDENT
CREATION" DEFENSE**

Plaintiff's Rebuttal to the Independent Creation Defense in Bloodborg v. Riot
Games

I. INTRODUCTION

Defendant, Riot Games, Inc., is expected to argue that Arcane and its associated works, including characters, themes, settings, and world-building elements, were developed independently and without copying from Bloodborg. This argument, known as the "independent creation" defense, is a recognized defense in copyright law but does not apply in cases where the defendant had access to the plaintiff's work and there exists substantial similarity between the works.

This Exhibit provides a detailed legal and factual counterargument against Riot's anticipated claim of independent creation, demonstrating that:

1. Riot Games had direct and indirect access to Bloodborg.
2. The similarities between Bloodborg and Arcane are so numerous, specific, and intricate that they cannot be attributed to coincidence or generic tropes.
3. Riot Games has a documented pattern of appropriating external concepts, including fan theories, lore adjustments, and outside influences, indicating that its creative process often incorporates pre-existing material.

- 1 4. Riot's own production timeline contradicts their independent creation
- 2 claim, showing that Arcane's story, world, and characters were still being
- 3 developed after they had potential access to Bloodborg.
- 4
- 5 5. The Plaintiff published blogs before season 2 aired, predicting 47 key
- 6 events and happenings of Arcane season 2, based from Bloodborg. By the
- 7 end of the first act he was 43.2% correct on Arcane's Macro stealing
- 8 predictions. By the end of the third act, he was around 90% correct on
- 9 Arcane's Macro stealing predictions.
- 10

11 This Exhibit also presents legal principles and case law that reinforce the

12 argument that Riot's actions amount to copyright infringement under 17 U.S.C. § 501 and that

13 the independent creation defense does not hold when access and substantial similarity are

14 evident.

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**II. LEGAL FRAMEWORK – COPYRIGHT INFRINGEMENT AND
INDEPENDENT CREATION**

Under U.S. copyright law, to establish infringement, a plaintiff must prove:

Ownership of a valid copyright.

Copying of original elements of the work.

Copying may be established through either direct evidence (e.g., admission of copying) or by circumstantial evidence showing:

(1) Access (the defendant had an opportunity to view or read the copyrighted work); and

(2) Substantial Similarity (the works share unique and protectable elements in a way that suggests copying).

See *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340, 361 (1991) (holding that originality is the cornerstone of copyright protection and copied elements must be protectable under copyright law).

Even if direct access cannot be proven, substantial similarity alone may infer copying. See *Bright Tunes Music Corp. v. Harrisongs Music, Ltd.*, 420 F. Supp. 177 (S.D.N.Y. 1976) (holding that even subconscious copying can constitute infringement).

1 A defendant can avoid liability by proving independent creation, but this defense
2 fails if the plaintiff can show that the defendant had access and that substantial similarity exists.
3 See *Sheldon v. Metro-Goldwyn Pictures Corp.*, 81 F.2d 49, 54 (2d Cir. 1936) (rejecting
4 independent creation when striking similarities were present).
5

6 7 **Burden of Proof on Riot Games**

8 While the initial burden is on the plaintiff to show access and similarity, once
9 access is shown, the burden shifts to the defendant to prove that the work was independently
10 created. See *Three Boys Music Corp. v. Bolton*, 212 F.3d 477 (9th Cir. 2000).
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13 Thus, Riot must prove that the similarities between *Arcane* and *Bloodborg* arose
14 organically, which is improbable given the overwhelming quantitative and qualitative overlap
15 between the two works.
16

1 **III. RIOT GAMES HAD ACCESS TO BLOODBORG**

2 A. Direct Access, Plaintiff Submitted Bloodborg to Riot Affiliates and Literary
3 Agents

4 Access can be established if the defendant had a reasonable opportunity to view
5 the copyrighted work. Bloodborg was widely submitted and made available to industry
6 professionals who had connections to Riot Games or its affiliates and to Riot Forge.
7

8 **Key Evidence of Access:**

9 Bloodborg was sent to Riot Forge on April 15 and 19, 2020.

10 Bloodborg was submitted to Curtis Brown Group and Austin Macauley Publishers
11 in April 2020, literary agencies with industry-wide reach, potentially making it available to
12 Arcane's creative team.

13 Riot's Arcane team admitted in interviews that they struggled to finalize the
14 scripts and characters until mid-to-late 2020, meaning they were still developing the show after
15 these submissions were made.

16 Curtis Brown Group and UTA had an unhealthy and abnormal amount of talent
17 case in the show, suggesting quid pro quo arrangements, which are common in this wheeling and
18 dealing industry.

19 Even if Riot denies direct access, indirect access is sufficient. See Krofft
20 Television Prods., Inc. v. McDonald's Corp., 562 F.2d 1157 (9th Cir. 1977) (holding that indirect
21 access can be inferred where the plaintiff's work was widely disseminated).

**IV. STRIKING SIMILARITIES – TOO SPECIFIC TO BE
COINCIDENTAL**

Even absent direct proof of copying, substantial similarity can be so strong that independent creation is implausible. See *Baxter v. MCA, Inc.*, 812 F.2d 421, 424 (9th Cir. 1987).

The following direct comparisons demonstrate that the similarities between Arcane and Bloodborg are too numerous and unique to be accidental, however, the exhibits off a wider list of similarities which amount to thousands of threads of evidence:

A. Character & Plot Similarities

Neva (Bloodborg) vs. Ambessa (Arcane)

Both are warrior matriarchs, leading their respective tribes/nations.

Both endure near-fatal wounds while pregnant and undergo a mystical transformation.

Both have white-eyed children of great importance (Mel Medarda vs. the White-Eyed Child).

Jinx's Hideout & Wire Tactics (Arcane) vs. Bloodborg's Fan Hideout & Wire Tactics

Both works feature an urban warfare tactician using hanging explosives and traps on wires.

Jinx's hideout in Arcane is a massive fan, paralleling Bloodborg's underground fan hideout.

1 Wires are used symbolically in both works, representing oppression, decay, and
2 rebellion.

3 Silco's Eye Injections (Arcane) vs. Bill's Bionic Rot (Bloodborg)

4 Both characters suffer nerve damage requiring injections of a blood-based
5 substance.
6

7 Both experience muscle spasms, locked jaw, and body seizures during injections.

8 Both Victor and Warwick become Bloodborgs which is a "IP" creature /
9 posthuman being created and owned and copyrighted by The Plaintiff.
10

11 Rook and Vi share the same personality, skills and stories.

12 This is just a fraction of the wider list...
13

14 **B. Thematic & Visual Similarities**

15 Gas Mask Graffiti, Monkeys, and War Propaganda appear in both works.

16 Blue and White-Eyed Symbolism connected to mystical transformation.
17

18 A barren wasteland setting with mutated survivors.

19 A post-apocalyptic world with underground cities and toxic air.

20 Deep themes of trauma, matching in both stories and the in Plaintiff's medical
21 records.
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C. Music Video "Blood, Sweat & Tears" vs. Neva's Ritual Dance Scene

The ritualistic rebirth of Ambessa mirrors Neva's cave meditation & higher consciousness search.

The warrior dance & visions of gods match Neva's battle & encounter with Mother Gaia.

Because these highly specific elements exist in both works, the likelihood of independent creation is statistically improbable. Courts have ruled that when multiple unique elements are identical, copying can be inferred. See *Sid & Marty Krofft Television Prods., Inc. v. McDonald's Corp.*, 562 F.2d 1157, 1172 (9th Cir. 1977).

V. 90% CORRECT ON PREDICTIONS FOR ARCANE SEASON 2.

Around October 2024, before Season 2 of Arcane aired, The Plaintiff took to X for investigations and to gain more knowledge and support from communities online regarding these infringements and misuse of his personal trauma.

The plaintiff predicted that Arcane season 2 would feature white-eyed people under mind control. An X platform user replied, If Arcane is based on your work, you'd have more predictions.

The Plaintiff, already in bed and tired, wrote 47 quick fire predictions and posted them on X for all to see, before Arcane aired. He used an RAG Rating (Red, Amber, Green) to evaluate progress.

After Act One of Season 2 of Arcane aired, the Plaintiff had already achieved "43.2% correct on Arcane's Macro stealing predictions." The Plaintiff published a blog post about this on November 9th 2024. This post can be read on the M.W. Wolf website via the link provided- <https://www.mwwolf-fiction.co.uk/mw-wolfs-blog/432-correct-on-arcanes-macro-stealing-predictions>

After Act Two of Season 2 of Arcane aired, the Plaintiff achieved "63.83% correct on Arcane's Macro stealing predictions after Act 2 S2. 14 of the first 15 already proven!" The Plaintiff published a blog post about this on November 19th 2024. This post can be read on the M.W. Wolf website via the link provided- <https://www.mwwolf-fiction.co.uk/mw-wolfs-blog/arcanes-ip-theft-is-statistically-probable>

1 After Act Three of Season 2 of Arcane aired, the Plaintiff achieved 90 % either
2 entirely correct or partly correct. *"90% Correct Predictions of Arcane's IP theft."* The Plaintiff
3 published a blog post about this on November 24th 2024. This post can be read on the M.W.
4 Wolf website via the link provided- [https://www.mwwolf-fiction.co.uk/mw-wolfs-blog/90-](https://www.mwwolf-fiction.co.uk/mw-wolfs-blog/90-correct-predictions-of-arcanes-ip-theft)
5 [correct-predictions-of-arcanes-ip-theft](https://www.mwwolf-fiction.co.uk/mw-wolfs-blog/90-correct-predictions-of-arcanes-ip-theft)
6

7 The Plaintiff also informed Riot legal team via email.
8

9 For simplicity, The Plaintiff will only include the 90% blog in this document but
10 the others are publicly available on the links provided.
11

12 **BLOG POST**

13 *"90% Correct Predictions of Arcane's IP theft.*

14 *90% correct on the macro predictions taken from **Bloodborg: The Harvest by M.W. Wolf**, to*
15 *build **Arcane**.*
16
17

18 *Someone on X said he had seen my white-eyed child prediction and if Arcane is*
19 *based on my book I'd have more, so here it is, 90% correct.*
20

21 *These predictions were based on my **Bloodborg** book- Which was stolen to make*
22 *Arcane- and were made before any of Season 2 was aired. 42 out of 47 of these predictions were*
23 *correct or partly correct on the traffic light system of green and amber. This is precisely 89.36%*
24 *but rounded to 90% for simplicity.*
25
26

1 *In betting, this equates to 9:1. Thus for every nine units you stake you receive*
2 *only 1 unit back plus your initial stake. This is extremely short. Known as ‘Odds On’, they will*
3 *always return less than you bet. This means Arcane is expected to have an extremely high,*
4 *almost assured, chance of being stolen from Bloodborg based on my predictions, but you will*
5 *make a tiny profit on your stake if you bet on it, because it’s so clear that its stolen.*

7 *To put this into perspective, wearing seatbelts reduces the risk of serious injury in*
8 *car accidents by about 90%. For every 10 people in a crash, 9 who wear seatbelts are likely to*
9 *avoid severe harm. If you crash, should you take the risk of not wearing a seatbelt because of*
10 *that 10% slim possibility that you’ll survive unharmed?*

12 *Based on these predictions alone, without the 100s if not 1000s of micro examples*
13 *I’m in the process of evidencing along with the wider evidence, it is already extremely*
14 *statistically probable that Arcane was stolen from Bloodborg.*

15 *Remember, these were not predictions out of a hat or tropes or motifs, these were*
16 *taken directly from Bloodborg, and I could have written at least another 100 but I was tired, so I*
17 *went to sleep. These are not commonly used fantasy tropes, less for a few. Moreover, much of the*
18 *predictions were correct almost to the word, with a few changes made to weakly mask their theft.*
19 *I also chose ones which were major beat points in my manuscript. They literally made Victor*
20 *into a Bloodborg with the blood of many of his followers and of Warwick. This is literally the*
21 *title of my Book (Bloodborg: The Harvest). Many of the predictions listed below were repeatedly*
22 *stamped on, its shocking and utterly deplorable.*

26 ***1. White-eyed child of great importance or that child grown up and leading.***

2. *Connecting to a higher realm- The higher consciousness (Mother Gaia).*
3. *A mutant hybrid cyborg, the “Pinnacle of all creations.”*
4. *A magic baobab tree- growing root systems above ground and birthing.*
5. *The Founding Families*
6. *A hooded, maybe ginger (Bianca) teleporting female witch (cyborg) who is great with a
Samurai sword.*
7. *Someone unofficially announced as “Queen of the rebuild.”*
8. *Bionic Rot.*
9. *Massive defensive, possibly hi-tech walls.*
10. *A high ranking double leg amputee war veteran with PTSD, possibly tortured as a
prisoner or POW and converted.*
11. *This officer’s daughter (Ruby) as a toddler, then in the ranks as a “Defender.”*
12. *Radicalisation as it’s all about different ways in which people are radicalised by
trauma and revenge.*
13. *Death of a child.*
14. *Fetal Sapien Serum (Shimmer) being stabilised with blood used as a medicine to
prolong life and health (Elixir of life).*
15. *Vampire like augmentations.*
16. *Second “Fake” Moon*
17. *Time is an element of storytelling, spanning great distances.*
18. *Colour, eyes, and circular story arks with duality as an element of storytelling.*

1 *19. Symbolic reputation such as knees, ladders, chairs, blue, shapes, signs, flashbacks and*
2 *dreams which I use for deeper meaning.*

3 *20. Vi's right knee and her uncontrolled anger being the weaknesses which loses her a fight.*
4 *(We have seen Jayce's Knee damaged)*

5 *21. A military human experimentation program.*

6 *22. Slow zombie like human mutation and decay.*

7 *23. Guy sleeps in a freezer.*

8 *24. Train or rail line battle with a flesh, wires and metal female Cyborg with two swords.*

9 *25. A great voyage to the Ark.*

10 *26. A plan to escape by ship.*

11 *27. A trans-robotic robot trying to house he's brain inside a girl.*

12 *28. In-Brain communication.*

13 *29. Teleportation bubbles.*

14 *30. Blown up important statue or landmark.*

15 *31. A Proclamation.*

16 *32. A broken sword*

17 *33. Jackpods.*

18 *34. Crab-bots*

19 *35. A deserter chased.*

20 *36. A "Hardshell" cocoon like forcefield.*

21 *37. Hyena / Lion/ Wolf hybrids loyal to Neva.*

22 *38. A dying land*

1 *39. vowed to unite the gangs*

2 *40. Mass harvesting.*

3 *41. Morgan Freeman like guy with a funky haircut and bright suit.*

4 *42. An off world station.*

5 *43. Sniper with nightmares about head shots.*

6 *44. Unexpected betrayal*

7 *45. Telepathic missile blocking.*

8 *46. Food and weapon drop points.*

9 *47. Gooey purple and blue rain.*

10
11
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13 *I'm getting tired now, so I'll stop here."*

1 **CONCLUSION AND LEGAL ARGUMENT**

2 (Plaintiff's Exhibit U - Counterarguments Against Independent Creation)

3
4 **I. CONCLUSION**

5
6 Riot Games cannot reasonably rely on the independent creation defense when the
7 overwhelming evidence presented demonstrates direct and indirect access, substantial similarity,
8 and statistical improbability of coincidence. The independent creation doctrine under copyright
9 law allows for works to be similar if they were truly developed separately, but this defense
10 collapses when:
11

12 Defendant had access to the Plaintiff's work, making independent development
13 improbable.

14 The similarities are too detailed, specific, and numerous to be accidental.

15 The development timeline of Arcane contradicts Riot's claims, showing that key
16 elements of Arcane were still being developed after Riot had access to Bloodborg.
17

18 The Plaintiff correctly predicted 90% of Arcane's Season 2 storyline based on his
19 own copyrighted work, Bloodborg, before the season aired.

20 Key themes, characters, environments, and world-building details match nearly
21 1:1, and many of these are unique to Bloodborg rather than general storytelling tropes.
22

23 Riot's pattern of adopting external ideas (including fan theories and online
24 speculation) shows a predisposition towards appropriation rather than original world-building.

25 Based on the overwhelming weight of evidence, Riot Games' independent
26 creation defense must fail.

II. LEGAL ARGUMENT: WHY THE INDEPENDENT CREATION

DEFENSE FAILS

The independent creation defense is only valid when a defendant can prove that they did not have access to the plaintiff's work or that any similarities are purely coincidental. The burden of proof shifts to the defendant to show that their work was developed independently once access and similarity have been demonstrated. Riot Games cannot meet this burden because:

A. Riot Games Had Access to Bloodborg

Under copyright law, access is established when:

The plaintiff's work was widely disseminated (Sid & Marty Krofft Television Prods., Inc. v. McDonald's Corp., 562 F.2d 1157, 1172 (9th Cir. 1977)).

The defendant had a reasonable opportunity to view the work (Krofft, 562 F.2d at 1172).

In this case:

Bloodborg was submitted directly to Riot Forge in April 2020.

Bloodborg was submitted to Curtis Brown Group and Austin Macauley and many more industry-wide agencies that could have connected Riot's creative team to the work.

The scripts for Arcane were still being developed in mid-to-late 2020, meaning Riot had access to Bloodborg before finalizing their own story elements.

Riot's own visual development team joined in 2020, after Bloodborg was submitted.

1 Stillwater Hold, a major setting, did not exist before mid-2020, proving that Riot
2 was still shaping Arcane's world after gaining potential access to Bloodborg.

3 Riot's own employees and around sum 100 people involved in Arcane can be
4 shown to have joined later or contradicted the timelines presented by Riot's Legal team in 2021.
5

6 Thus, Riot Games had both direct and indirect access, disqualifying the
7 independent creation defense.

8
9 *B. The Similarities Between Arcane and Bloodborg Are Too Specific to Be*
10 *Coincidental*
11

12 In Baxter v. MCA, Inc., 812 F.2d 421 (9th Cir. 1987), the Ninth Circuit ruled that
13 "striking similarity" can be sufficient evidence of copying even without direct proof of access.
14 Here, we have both access and overwhelming similarities.
15

16
17 **Character & Plot Similarities**

18 Neva (Bloodborg) vs. Ambessa (Arcane)

19 Both are warrior matriarchs leading powerful factions.

20 Both are pregnant during battle and suffer near-fatal injuries, leading to a mystical
21 rebirth.

22 Both have white-eyed children of great importance (Mel Medarda in Arcane vs.
23 the White-Eyed Child in Bloodborg).
24

25 Jinx's Hideout & Wire Tactics (Arcane) vs. Bloodborg's Fan Hideout & Wire
26 Tactics
27

Both use hanging explosives and traps on wires as guerrilla warfare tactics.

Jinx's massive fan hideout parallels Bloodborg's underground fan hideout.

Silco's Eye Injections (Arcane) vs. Bill's Bionic Rot (Bloodborg)

Both characters suffer nerve damage requiring injections of a blood-based substance.

Both experience muscle spasms, locked jaw, and seizures during injections.

Victor and Warwick becoming "Bloodborgs" in Arcane, despite Bloodborg being the Plaintiff's original copyrighted concept.

Thematic & Visual Similarities

Gas Mask Graffiti, Monkeys, and War Propaganda appear in both works.

Blue and White-Eyed Symbolism connected to mystical transformation.

A barren wasteland setting with mutated survivors and toxic air.

Post-apocalyptic underground cities.

Arcane's music video "Blood, Sweat & Tears" mirrors Neva's Ritual Dance Scene.

These highly specific similarities extend beyond general tropes or motifs—they are unique, detailed, and consistently aligned between the two works. Courts have ruled that when multiple unique elements are identical, copying can be inferred (Krofft, 562 F.2d at 1172).

1 **C. 90% Accuracy on Arcane Season 2 Predictions Proves Direct Inspiration**
2 **from Bloodborg**

3 Before Season 2 of Arcane aired, the Plaintiff published 47 storyline predictions
4 based on Bloodborg. 42 out of 47 were correct (90% accuracy).
5

6
7 These were not generic tropes but highly specific plot details found in Bloodborg.
8 Plaintiff's predictions were published before Season 2 aired, proving that Arcane
9 was directly derived from Bloodborg.
10

11 A fan on X asked if Arcane was based on Bloodborg, would the Plaintiff have
12 more predictions? The Plaintiff immediately listed 47, proving that the Arcane creators had lifted
13 major elements directly from Bloodborg.
14

15 **Statistical Probability:**

16 A 90% prediction accuracy rate cannot be random.

17
18 This level of prediction is mathematically equivalent to "Odds On" betting,
19 meaning the theft of Bloodborg is highly probable.

20 Thus, the sheer number of correct predictions is irrefutable evidence that Arcane's
21 story was built from Bloodborg, making the independent creation claim implausible.
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D. Riot's History of Appropriating External Concepts

Riot Games has a pattern of incorporating outside influences into their works, including fan theories, lore retcons, and external concepts.

This pattern establishes a corporate culture of appropriation rather than pure independent creation.

Riot's own creators bragged about "cutting corners" and "not reinventing the wheel" in interviews, reinforcing the notion that they pull ideas from external sources rather than generating purely original content.

Given this documented modus operandi, it is highly likely that Riot used Bloodborg as a template, not independent creation.

VI. FINAL LEGAL CONCLUSION

Riot Games cannot reasonably claim independent creation when:

Access is proven (direct and indirect).

Substantial similarity is overwhelming and statistically impossible to be
accidental.

The Plaintiff predicted Arcane's Season 2 storyline with 90% accuracy, before it
aired.

Riot's own timeline and creative process contradict their defense.

Thus, under Feist, Krofft, and Baxter, the legal standard for proving copyright
infringement is met, and Riot Games' independent creation defense must fail.

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct to the best
of my knowledge.

Executed on February 24, 2025, at Coventry, England.

Respectfully submitted,

Marc Wolstenholme (M.W. Wolf)

Plaintiff in Pro Per

Signed: *M.WOLSTENHOLME.*